UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,270	06/10/2005	Noriko Yamashita	271659US2X PCT	3233

22850 7590 01/15/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
MITTAL, KRISHAN K	

ART UNIT	PAPER NUMBER
3688	

NOTIFICATION DATE	DELIVERY MODE
01/15/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)	
	10/538,270	YAMASHITA ET AL.	
	Examiner	Art Unit	
	Kris Mittal	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to the amendment filed on November 10, 2008. The amendment cancelled claim 14, amended claims 1-13 and 15, and added new claims 16-19. Thus, Claims 1-13 and 15-19 are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

2. Claim 14 was rejected under 35 U.S.C. 101 because the claimed invention was deemed to be directed to non-statutory subject matter.

The amendment submitted on November 10, 2008 has cancelled the subject claim. Therefore, **the Examiner hereby withdraws the rejection.**

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis at al., U.S. Publication No. 20040117831 (hereinafter referred to as Ellis) in view of Babu, U.S. Publication No. 20040003396 and Strietzel, U.S. Patent No. 6,950,804.

As to claim 1, Ellis discloses a content information processing apparatus comprising:

first storage means for storing first content information of a content to be screened for a user at a real place (0086: storing program guide information) and content supplier information of a content supplier that supplies the content for screening at the real place (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest);

viewing information processing means for specifying second content information of the content distributed to a terminal of the user via a network (0136: the user may select any individual movie to find out when it is available or any other action appropriate to selection of the movie), the terminal configured to allow the user to view the content (0097: server 22 in television distribution facility may be configured in a client-server arrangement in which user television equipment device acts as a client processor; 0124: screen 140 shows a list of movies that are available to be viewed).

Ellis does not explicitly disclose:

viewing history storage means for storing viewing history information including at least the second content information of the content distributed to the terminal of the user; and

incentive means for

extracting the second content information of the content distributed to the terminal of the user from the viewing history information,

specifying that the content supplier is associated with the extracted second content information of the content distributed to the terminal of the user.

Babu teaches:

storing viewing history information including information associated with distributed content (0052: the metadata may include any data associated with media content, such as viewing history and indicates which programs have been watched and at what times; 0030: metadata maps may be stored using any number of techniques for relating data);

identifying content information from the viewing history (0052: the received viewing histories may be used to identify groups of programs that are of interest to multiple viewers and may then be related in a metadata map); and

specifying content supplier association with the identified content information from the viewing history (0016: media content provider 102 provides media content and data associated with the media content to the television server, the associated data may

include titles, ratings, characters etc.; 0052: the data associated with a group of programs may then be related in a metadata map).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing viewing history of the content distributed to the user terminal, extracting or identifying the content information from the viewing history and associating the content supplier of the content extracted from the viewing history to enable the system provider to identify content suppliers of the content viewed by the users so that the content suppler could be paid correctly for the content provided by them.

Ellis and Babu do not explicitly disclose:

calculating a payment to the content supplier that supplies the content for screening at the real place based on the viewing history information including the second content information of the content distributed to the terminal of the user and the first content information of the content to be screened for the user at the real place.

Strietzel teaches:

ensuring payment by users to content suppliers by tracking the number of accesses for each content item (col. 4, lines 22-33: in this manner, the system provides flexibility to the user to determine the payment method for different content; col. 8, lines 14-16: user is permitted to make selection as to how to pay for the cost of downloaded content; col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for calculating payment due to content supplier based upon viewing history information of the content and associated information distributed to the user terminal so that the content suppliers will be ensured of accurate payment and will have the incentive to improve upon their services.

As to claim 2, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Ellis further discloses, further comprising distribution means for distributing a content to the terminal of the user (0009: a television distribution facility).

As to claim 3, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Ellis further discloses, further comprising a network interface configured to connect via a communication network to a content distribution terminal for distributing the content to the terminal of the user over the communication network (0012 and Fig. 1B: multiple distribution facilities connected via a communication network).

Furthermore, Babu discloses the viewing information processing means receives the viewing history information of the content from the terminal of the user (0024: a user may choose to have their viewing history collected and sent o the television server).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for receiving the viewing history information of the content from the user terminals so that the users could be appropriately billed and user preferences could be determined for future promotions by content providers.

As to claim 4, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Babu further discloses, further comprising:

the first storage means further stores supplier assigned-area information indicating an area associated with the content supplier that supplies the content for screening (0016: station identifiers, channel identifiers).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing assigned-area information associated with a content supplier so that the content suppliers could be linked with users with similar assigned-areas which in turn would result in maximizing revenues for content suppliers.

Furthermore, Strietzel discloses:

second storage means for storing identification information regarding the user and user assigned-area information indicating an area associated with the user (col. 5 liners 30-39: each personal profile *of user* can be stored by server 102 in a personal profile database 108, which can be stored in storage medium 122 – typical information includes address information).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing user identification and user assigned-area so that the users could be linked with content suppliers in similar assigned-areas which in turn would result in maximizing revenues for content suppliers.

Ellis, Babu and Strietzel do not explicitly disclose the incentive means calculates the payment to the content supplier that supplies the content for screening based on the stored user assigned-area information and the stored supplier assigned-area information. However, Strietzel discloses payment to content suppliers by tracking the number of accesses for each content item (col. 4, lines 22-33: in this manner, the system provides flexibility to the user to determine the payment method for different content; col. 8, lines 14-16: user is permitted to make selection as to how to pay for the cost of downloaded content; col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for determining payment to content supplier based on assigned-area to provide an incentive to content suppliers to cover a wider assigned area or serve a more popular assigned-area to increase their revenue

As to claim 5, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Strietzel further discloses, further comprising:

registration means for accepting registration of a user assigned-area information indicating an area, associated with the user to store the user assigned-area information in the second storage means (col. 5 liners 30-39: registration comprises obtaining personal information from the user; each personal profile *of user* can be stored by server 102 in a personal profile database 108, which can be stored in storage medium 122 – typical information includes address information).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing user assigned-area information with user registration information so that the content providers will offer content to accepted users to preclude unauthorized use of content.

As to claim 6, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Babu further discloses, wherein

the viewing information processing means provides the viewing history information to the content supplier (0052: data center 114 receives metadata from client device 108 and/or from data provider 104 – the metadata include viewing history; Fig. 5 shows metadata maps received from client device are stored in data warehouse).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide viewing history information of user to the content supplier to enable the content supplier to determine prospects for future offerings that would be conducive to increased income.

As to claim 7, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Strietzel further discloses, wherein

with reference to the first storage means, the viewing information processing means provides the terminal of the user with information regarding a plurality of content suppliers registered in association with the content distributed to the terminal of the user (col. 16, lines 57-61: ability of a registered user to act as a content provider) and accepts the content supplier information of the content supplier as a desired content supplier selected from among the plurality of content suppliers by the user (col. 4, lines, lines, 47-48: content provider database may be included as part of the system; lines, 56-59: content server allows users to select content items to be downloaded; col. 5, lines 47: user provides preferences for *desired* contents or brands), and

the incentive means gives, as an incentive, the payment to the desired content supplier (col. 3, lines 11-18: *payment is against an item downloaded from content*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide users with information about content suppliers along with their assigned- area information so that users will be supplied content from accepted users to preclude unauthorized suppliers from misusing the system.

As to claim 8, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Babu further discloses, wherein

the first storage means further stores advertising information of each of the plurality of content suppliers (Fig.1: advertisement data repository 122), and

when providing the terminal of the user with the information regarding the plurality of content suppliers, the viewing information processing means provides the user with the advertising information of the content suppliers stored in the first storage means (0016: media content may include advertisements).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide storing advertising information for content suppliers and provide the same to the users so that the content suppliers could benefit from advertising their products and/or services, while supplying the content.

As to claim 9, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Babu further discloses, further comprising:

user information storage means for storing a relationship of the user to the content supplier (0011, 0019 and 0027).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing information pertaining to relationship between a user and content supplier so that the user and content supplier could be in a growing relationship.

Ellis, Babu and Strietzel do not explicitly disclose the incentive means calculates the payment to the content supplier based on the stored relationship of the user to the content supplier in the user information storage means. However, Strietzel teaches tracking viewing of contents to ensure payment to content suppliers with a tracking database having multiple fields(col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item; col. 11, lines 55-67: tracking database 110 may include more than one field per content item per user).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for incentive payment determination based upon the relationship between user and content supplier, by including additional field to track relationship information, so that the content suppliers will have an incentive to maintain good relationship with users that would result in increased income to them.

As to claim 10, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Strietzel further discloses, wherein

the incentive means collects a charge from the user having the terminal that has received the distribution of the content (col. 2, lines 13-14: user is charged each time he accesses content) and gives the calculated payment , calculated from the collected charge at a predetermined rate, as an incentive to the content supplier (col. 15, lines 29-30: content providers can negotiate a flat rate or percentage compensation). Strietzel further teaches payments based upon predetermined criteria (col. 9, line 1: predetermined number of accesses; col. 14, line 65: predetermined update period)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide determine payment to content supplier at a predetermined rate so that the content suppliers will know in advance the expected revenue over a period.

As to claim 11, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Ellis further discloses, wherein

the content includes a video content to be screened at the real place (0095: video data may be transmitted using one or more digital channels; 0114: on screen options provide access to program guide hubs)

the content supplier includes an operator of a theater or a video content distributor (0132: options to see movies, to view the staff picks the service provider); and

the real place includes the theater (0245: local hub may provide local information such as movies playing at local theaters)

As to claim 12, Ellis discloses a content information processing system including a distribution apparatus for distributing a content to a terminal of a user via a network and a server for processing information related to the content distributed by the distribution apparatus, the server comprising

first storage means for storing first content information of the content to be screened for the user at a real place (0086: storing program guide information) and content supplier information of a content supplier that supplies the content for screening at the real place (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest),

viewing information processing means for specifying second content information of the content distributed from the distribution apparatus to the terminal of the user (0136: the user may select any individual movie to find out when it is available or any other action appropriate to selection of the movie), the terminal configured to allow the user to view the content (0097: server 22 in television distribution facility may be configured in a client-server arrangement in which user television equipment device

acts as a client processor; 0124: screen 140 shows a list of movies that are available to be viewed);

Ellis does not explicitly disclose:

viewing history storage means for storing viewing history information including at least the second content information of the content distributed to the terminal of the user; and

incentive means for

extracting the second content information of the content distributed to the terminal of the user from the viewing history information, and

specifying that the content supplier is associated with the extracted second content information of the content distributed to the terminal of the user.

Babu teaches:

storing viewing history information including information associated with distributed content (0052: the metadata may include any data associated with media content, such as viewing history and indicates which programs have been watched and at what times; 0030: metadata maps may be stored using any number of techniques for relating data);

identifying content information from the viewing history (0052: the received viewing histories may be used to identify groups of programs that are of interest to multiple viewers and may then be related in a metadata map); and

specifying content supplier association with the identified content information from the viewing history (0016: media content provider 102 provides media content and data associated with the media content to the television server, the associated data may include titles, ratings, characters etc.; 0052: the data associated with a group of programs may then be related in a metadata map).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing viewing history of the content distributed to the user terminal, extracting or identifying the content information from the viewing history and associating the content supplier of the content extracted from the viewing history to enable the system provider to identify content suppliers of the content viewed by the users so that the content suppler could be paid correctly for the content provided by them.

Ellis and Babu do not explicitly disclose:

calculating a payment to the content supplier that supplies the content for screening at the real place based on the viewing history information including the second content information of the content distributed to the terminal of the user and the first content information of the content to be screened for the user at the real place.

Strietzel teaches ensuring payment by users to content suppliers by tracking the number of accesses for each content item (col. 4, lines 22-33: in this manner, the system provides flexibility to the user to determine the payment method for different content; col. 8, lines 14-16: user is permitted to make selection as to how to pay for the cost of downloaded content; col. 15, lines 17-20: to ensure that content providers are

paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for calculating payment due to content supplier based upon viewing history information of the content and associated information distributed to the user terminal so that the content suppliers will be ensured of accurate payment and will have the incentive to improve upon their services.

As to claims 13 and 15, Ellis discloses a content information processing method and a computer readable medium including computer executable instructions, wherein the instructions, when executed by a computer, cause the computer to perform, a method comprising:

storing first content information of content to be screened for a user at a real place (0086: storing program guide information) and content supplier information of a content supplier that supplies the content for screening at the real place (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest);

specifying second content information of the content distributed to a terminal of the user via a network (0136: the user may select any individual movie to find out when it is available or any other action appropriate to selection of the movie), the terminal configured to allow the user to view the content (0097: server 22 in television distribution facility may be configured in a client-server arrangement in which user

television equipment device acts as a client processor; 0124: screen 140 shows a list of movies that are available to be viewed).

Ellis does not explicitly disclose

storing viewing history information including at least the second content information of the content distributed to the terminal of the user;

extracting the second content information of the content distributed to the terminal of the user from the viewing history information; and

specifying that the content supplier is associated with the extracted second content information of the content distributed to the terminal of the user

Babu teaches

storing viewing history information including information associated with distributed content (0052: the metadata may include any data associated with media content, such as viewing history and indicates which programs have been watched and at what times; 0030: metadata maps may be stored using any number of techniques for relating data);

identifying content information from the viewing history (0052: the received viewing histories may be used to identify groups of programs that are of interest to multiple viewers and may then be related in a metadata map); and

specifying content supplier association with the identified content information from the viewing history (0016: media content provider 102 provides media content and data associated with the media content to the television server, the associated data may

include titles, ratings, characters etc.; 0052: the data associated with a group of programs may then be related in a metadata map).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing viewing history of the content distributed to the user terminal, extracting or identifying the content information from the viewing history and associating the content supplier of the content extracted from the viewing history to enable the system provider to identify content suppliers of the content viewed by the users so that the content suppler could be paid correctly for the content provided by them.

Ellis and Babu do not explicitly disclose:

calculating, by the computer, a payment to the content supplier that supplies the content for screening at the real place based on the viewing history information including the second content information of the content distributed to the terminal of the user and the first content information of the content to be screened for the user at the real place.

Strietzel teaches ensuring payment by users to content suppliers by tracking the number of accesses for each content item (col. 4, lines 22-33: in this manner, the system provides flexibility to the user to determine the payment method for different content; col. 8, lines 14-16: user is permitted to make selection as to how to pay for the cost of downloaded content; col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for calculating payment due to content supplier based upon viewing history information of the content and associated information distributed to the user terminal so that the content suppliers will be ensured of accurate payment and will have the incentive to improve upon their services.

As to claim 16, Ellis discloses a content information processing apparatus comprising:

a first storage device configured to store first content information regarding content to be screened for a user at a real place (0086: storing program guide information), and content supplier information regarding a content supplier that supplies the content for screening at the real place (0009: the program guide may provide a main menu screen that provides interactive hyperlinks to related items or features within the given category of interest);

a viewing information processor unit configured to specify second content information of the content distributed to a terminal of the user via a network (0136: the user may select any individual movie to find out when it is available or any other action appropriate to selection of the movie), the terminal configured to allow the user to view the content (0097: server 22 in television distribution facility may be configured in a client-server arrangement in which user television equipment device acts as a client processor; 0124: screen 140 shows a list of movies that are available to be viewed);

Ellis does not explicitly disclose:

a viewing history storage device configured to store viewing history information including at least the second content information of the content distributed to the terminal of the user; and

an incentive processing unit configured to

extract the second content information of the content distributed to the terminal of the user from the viewing history information, and

specify that the content supplier is associated with the extracted second content information.

Babu teaches: processing unit (0013: substantial memory and processing resources) configured to:

storing viewing history information including information associated with distributed content (0052: the metadata may include any data associated with media content, such as viewing history and indicates which programs have been watched and at what times; 0030: metadata maps may be stored using any number of techniques for relating data);

identifying content information from the viewing history (0052: the received viewing histories may be used to identify groups of programs that are of interest to multiple viewers and may then be related in a metadata map); and

specifying content supplier association with the identified content information from the viewing history (0016: media content provider 102 provides media content and data associated with the media content to the television server, the associated data may

include titles, ratings, characters etc.; 0052: the data associated with a group of programs may then be related in a metadata map).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for storing viewing history of the content distributed to the user terminal, extracting or identifying the content information from the viewing history and associating the content supplier of the content extracted from the viewing history to enable the system provider to identify content suppliers of the content viewed by the users so that the content suppler could be paid correctly for the content provided by them.

Ellis and Babu do not explicitly disclose:

calculate a payment to the content supplier that supplies the content for screening based on the viewing history information including the second content information regarding the content distributed to the terminal of the user and the first content information of the content to be screened for the user at the real place.

Strietzel teaches ensuring payment by users to content suppliers by tracking the number of accesses for each content item (col. 4, lines 22-33: in this manner, the system provides flexibility to the user to determine the payment method for different content; col. 8, lines 14-16: user is permitted to make selection as to how to pay for the cost of downloaded content; col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for calculating payment due to content supplier based upon viewing history information of the content and associated information distributed to the user terminal so that the content suppliers will be ensured of accurate payment and will have the incentive to improve upon their services.

As to claim 17, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Babu further discloses, wherein

the viewing history information includes a number of times the user views the content using the terminal of the user (0052: the metadata may include any data associated with media content, such as viewing history and indicates which programs have been watched and at what times; 0030: metadata maps may be stored using any number of techniques for relating data).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for viewing history information to include number of times user viewed the content to ensure accurate payment calculations due to content supplier for the number of times the content provided by them was accessed by a user.

Strietzel discloses the incentive means calculates the payment to the content supplier based on the viewing history information including the number of times the user views the content using the terminal of the use (col. 15, lines 17-20: to ensure that

content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for calculating payment due to content supplier based upon viewing history information of the content so that the content suppliers will be ensured of accurate payment.

As to claim 18, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 1 (as rejected above) and Strietzel further discloses, further comprising:

second incentive means for calculating a second payment to another content supplier that supplies the content to be screened at a second real place (col. 4, lines 40-42: content server 102 is preferably interfaced to a plurality of content providers; col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, the content server 102 tracks the number of accesses for each content item).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for a payment to another content supplier that supplies content at another place thus allowing the system to deal with a plurality of user terminals and a plurality of content suppliers resulting in enhanced system capability to serve users and content suppliers in a plurality of assigned-areas.

As to claim 19, Ellis, Babu and Strietzel disclose the content information processing apparatus according to Claim 18 (as rejected above) and while Strietzel further discloses, wherein the second incentive means calculates the payment to the another content supplier (), Ellis, Babu and Strietzel do not explicitly disclose based on attendance at the real place, attendance at the second real place, and a number of screening days. However, Strietzel teaches tracking viewing of contents to ensure payment to content suppliers with a tracking database having multiple fields(col. 15, lines 17-20: to ensure that content providers are paid for the use of their content, content server 102 tracks the number of accesses for each content item; col. 11, lines 55-67: tracking database 110 may include more than one field per content item per user).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Ellis to provide for determining payment to another content supplier for screening at one or more real places by including additional tracking field to include attendance and number of screenings that could be used as basis of payment thus providing incentive to content suppliers to provide more popular content.

Response to Arguments

5. Applicant's remarks/arguments, submitted on November 10, 2008, have been considered . Examiner's response follows:

a. **Claim rejections under 35 USC 102:**

Applicant's arguments with respect to Claims 1-10 and 12-15 rejected under 35 USC 102(b) as anticipated by Nagano, with respect to amended independent claims 1, 12, 13 and 15 have been fully considered but are moot in view of the new grounds of rejection.

Applicants argues that Nagano fails to disclose "calculating a payment to the content supplier that supplies the content for screening at the real place based on the viewing history information including the second content information of the content distributed to the terminal of the user and the first content information of the content to be screened for the user at the real place", as recited by amended independent claims 1, 12, 13 and 15. Applicant's arguments are moot in view of the new grounds of rejection.

b. **Claim rejections under 35 USC 103:**

Applicant's arguments with respect to Claims 11 rejected under 35 USC 103(a) as unpatentable over Nagano in view of Ji have been fully considered but are found not persuasive and are moot in view of the new grounds of rejection.

Applicant argues that Ji fails to teach or suggest the claimed features lacking in Nagano and recited in amended claim 11. Examiner notes that Ji teaches features of the *original claim* 11, an apparatus wherein content includes a video content to be screened at a theater, and the content supplier includes a theater or video content distributor (0175: movies manufactured by film makers may also be converted to contents data and transmitted on the Internet broadcasting stations, and accordingly,

theaters all over the world may receive them on the Internet, convert them into original contents data using the specific execution program, and show them on the screen). Therefore, Applicants' arguments are not persuasive and are moot in view of new grounds of rejection of the amended claim 11.

Examiner's Notes

6. Examiner notes that the specified citations are representative of the teachings in the art and are cited for convenience only, as applied to the specific limitations within the individual claim. However, other passages and figures may apply as well. Therefore, Applicants are to consider fully the entire reference(s) as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art(s) or disclosed by the Examiner.

Applicants are further reminded that a **recitation of intended use** must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See e.g. In re Collier, 158 USPQ 266, 267 (CCPA 1968) (where the court interpreted the claimed phrase "a connector member for engaging shield means" and held that the shield means was not a positive element of the claim since "[t]here is no positive inclusion of 'shield means' in what is apparently intended to be a claim to structure consisting of a combination of elements." Therefore, intended use recitations, such as 'for' or 'associated with' are given little patentable weight.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07 (a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136 (a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Hendricks et al., U.S. Patent No. 6,463,585 describes targeted advertising with television programs and viewing history
- Whitcomb, U.S. Publication No. 20040216163 describes management and distribution of content streams in a theater environment.
- Miyazaki et al., U.S. Publication No. 20020046401 describes apparatus and method for users to receive program guide, specify a program and in response receive content and advertisement.

- Short et al., U.S. Publication No. 20040186780 describes delivering of audio/visual information to in a variety of venues

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kris Mittal whose telephone number is (571)270-5492. The examiner can normally be reached on Monday-Thursday 7.30 AM-5.00 PM.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Myhre James can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KM
1/11/09

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688